

# PART 11

## DESCRIBING AGENCY NEEDS

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[Entire Part revised by FAC 90-32]

### 11.000 Scope of part.

This part prescribes policies and procedures for describing agency needs.

### 11.001 Definitions.

*Material*, as used in this part, includes, but is not limited to, raw material, parts, items, components, and end products.

*New*, as used in this part, means previously unused or composed of previously unused materials and may include unused residual inventory or unused former Government surplus property.

*Other than new*, as used in this part, includes, but is not limited to, recycled, recovered, remanufactured, used, and reconditioned.

*Reconditioned*, as used in this part, means restored to an earlier normal operating condition by readjustments and replacement of parts.

*Remanufactured*, as used in this part, means factory rebuilt to new equipment performance specification and unused subsequent to rebuilding.

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### 11.002 Policy.

#### ~~10.002 Policy.~~

<i>FAR as of FAC 90-25</i>	<i>FAR as revised</i>
(a) In fulfilling the requirements of 10 U.S.C. 2305(a)(1) and 41 U.S.C. 253a(a) regarding the preparation for acquisition of supplies and services:	(a) In fulfilling requirements of 10 U.S.C. 2305(a)(1), <b>10 U.S.C. 2377</b> , 41 U.S.C. 253a(a), and <b>41 U.S.C. 264b</b> , agencies shall—
(1) Agencies shall specify needs in a manner designed to promote full and open competition (see Part 6) for acquisitions.	(1) Specify needs <b>using market research</b> in a manner designed to—
—(2) Agencies shall develop specifications and purchase descriptions using market research in a manner designed to promote full and open competition, with due regard to the nature of the supplies or services to be acquired.	(i) Promote full and open competition (see Part 6), with due regard to the nature of the supplies or services to be acquired; <b>and</b>
(3) In solicitations, agencies shall include specifications and purchase descriptions that—	(ii) Only include restrictive provisions or conditions to the extent necessary to satisfy the minimum needs of the agency or as authorized by law.
—(i) Permit full and open competition; and	
—(ii) Include restrictive provisions or conditions only to the extent necessary to satisfy the minimum needs of the agency or as authorized by law.	
—(4) Agencies shall prepare specifications and purchase descriptions which reflect the minimum	(2) <b>To the maximum extent practicable, ensure that acquisition officials—</b>

needs of the agency and the market available to satisfy such needs. Specifications and purchase descriptions may be stated in terms of—

—(i) Function, so that a variety of products or services may qualify;

—(ii) Performance, including specifications of the range of acceptance characteristics or of the minimum acceptable standards; or

—(iii) Design requirements.

**(i) State requirements with respect to an acquisition of supplies or services in terms of—**

**(A) Functions to be performed;**

**(B) Performance required; or**

**(C) Essential physical characteristics;**

**(ii) Define requirements in terms that enable and encourage offerors to supply commercial items, or, to the extent that commercial items suitable to meet the agency's needs are not available, nondevelopmental items, in response to the agency solicitations;**

**(iii) Provide offerors of commercial items and nondevelopmental items an opportunity to compete in any acquisition to fill such requirements;**

**(iv) Require prime contractors and subcontractors at all tiers under the agency contracts to incorporate commercial items or nondevelopmental items as components of items supplied to the agency; and**

**(v) Modify requirements in appropriate cases to ensure that the requirements can be met by commercial items or, to the extent that commercial items suitable to meet the agency's needs are not available, nondevelopmental items.**

—(b) Acquisition policies and procedures shall require descriptions of agency requirements, whenever practicable, to be stated in terms of functions to be performed or performance required.

—(c) The Metric Conversion Act of 1975, as amended by the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 205a, et seq.), designates the metric system of measurement as the preferred system of weights and measures for United States trade and commerce. It also requires that each Federal agency, by a date certain and to the extent economically feasible by the end of fiscal year 1992, use the metric system of measurement in its procurements, except to the extent that such use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms. Requiring activities are responsible for establishing guidance implementing this policy in formulating their requirements for acquisitions.

**(b) The Metric Conversion Act of 1975, as amended by the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 205a, et seq.), designates the metric system of measurement as the preferred system of weights and measures for United States trade and commerce, and it requires that each agency use the metric system of measurement in its acquisitions, except to the extent that such use is impracticable or is likely to cause significant inefficiencies or loss of markets to United States firms. Requiring activities are responsible for establishing guidance implementing this policy in formulating their requirements for acquisitions.**

[paragraph (d) moved to new §11.101]

~~—(f) Requiring agencies, for programs which they have designated as subject to acquisition streamlining, should apply specifications, standards, and related documents initially for guidance only, making final decisions on the application and tailoring of these documents as a product of the design and development process. Requiring agencies should not dictate detailed design solutions prematurely. The objective of acquisition streamlining is to reduce the time and cost, and improve the quality of systems acquisitions, by ensuring that contracts contain only those necessary specifications, standards, and related documents which have been tailored for application at the most appropriate time in the system acquisition cycle. To the extent practicable, contractors should be involved in recommending application and tailoring of such specifications, standards, and related documents in one phase for proposed application to the succeeding phase of the acquisition cycle.~~

**(c) To the extent practicable and consistent with Subpart 9.5, potential offerors should be given an opportunity to comment on agency requirements or to recommend application and tailoring of requirements documents and alternative approaches.** Requiring agencies should apply specifications, standards, and related documents initially for guidance only, making final decisions on the application and tailoring of these documents as a product of the design and development process. Requiring agencies should not dictate detailed design solutions prematurely (see 7.101 and 7.105(a)(8)).

**(d) The Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901, *et seq.*), as amended, and Executive Order 12873, dated October 20, 1993, establish requirements for the procurement of products containing recovered materials, and environmentally preferable and energy-efficient products and services. Requiring activities shall prepare plans, drawings, specifications, standards (including voluntary standards), and purchase descriptions that consider the requirements set forth in Part 23.**

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## SUBPART 11.1—SELECTING AND DEVELOPING REQUIREMENTS DOCUMENTS

### 11.101 Order of precedence for requirements documents.

<i>FAR as of FAC 90-25</i>	<i>FAR as revised</i>
<del>—(d) To the maximum practicable extent, unless inconsistent with applicable law or incapable of meeting the Government's needs, agencies shall use the following types of product descriptions, which are listed in descending order of preference: —(1) Voluntary standards; —(2) CID's in the acquisition of commercial or commercial-type products; —(3) Government product descriptions stated predominantly in terms of functions to be performed</del>	<b>(a) Agencies may select from existing requirements documents, modify or combine existing requirements documents, or create new requirements documents to meet agency needs, consistent with the following order of precedence: (1) Documents mandated for use by law. (2) Performance-oriented documents: (3) Detailed design-oriented documents: (4) Standards, specifications and related publications issued by the Government outside</b>

or performance required;

~~—(4) Government product descriptions stated predominantly in terms of material, finish, schematics, tolerances, operating characteristics, component parts, or other design requirements.~~

**the Defense or Federal series for the non-repetitive acquisition of items.**

**(b) Agencies should prepare product descriptions to achieve maximum practicable use of recovered material and other materials that are environmentally preferable (see Subparts 23.4 and 23.7).**

#### **11.102 Standardization program.**

Agencies shall select existing requirements documents or develop new requirements documents that meet the needs of the agency in accordance with the guidance contained in the Federal Standardization Manual and, for DOD components, DOD 4120.3-M, Defense Standardization Program Policies and Procedures. The Federal Standardization Manual may be obtained from General Services Administration, Federal Supply Service Bureau, Specifications Section, Suite 8100, 470 L'Enfant Plaza, SW, Washington, DC 20407. DOD 4120.3-M may be obtained from DOD Single Stock Point, Standardization Document Order Desk, Building 4D, 700 Robbins Avenue, Philadelphia, PA 19111-5094.

#### **11.103 Market acceptance.**

(a) Section 8002(c) of Pub. L. 103-355 provides that, in accordance with agency procedures, the head of an agency may, under appropriate circumstances, require offerors to demonstrate that the items offered—

(1) Have either—

(i) Achieved commercial market acceptance; or

(ii) Been satisfactorily supplied to an agency under current or recent contracts for the same or similar requirements; and

(2) Otherwise meet the item description, specifications, or other criteria prescribed in the public notice and solicitation.

(b) Appropriate circumstances may, for example, include situations where the agency's minimum need is for an item that has a demonstrated reliability, performance or product support record in a specified environment. Use of market acceptance is inappropriate when new or evolving items may meet the agency's needs.

(c) In developing criteria for demonstrating that an item has achieved commercial market acceptance, the contracting officer shall ensure the criteria in the solicitation—

(1) Reflect the minimum need of the agency and are reasonably related to the demonstration of an item's acceptability to meet the agency's minimum need;

(2) Relate to an item's performance and intended use, not an offeror's capability;

(3) Are supported by market research;

(4) Include consideration of items supplied satisfactorily under recent or current Government contracts, for the same or similar items; and

(5) Consider the entire relevant commercial market, including small business concerns.

(d) Commercial market acceptance shall not be used as a sole criterion to evaluate whether an item meets the Government's requirements.

(e) When commercial market acceptance is used, the contracting officer shall document the file to—

(1) Describe the circumstances justifying the use of commercial market acceptance criteria; and

(2) Support the specific criteria being used.

#### 11.104 Items peculiar to one manufacturer.

<i>FAR as of FAC 90-25</i>	<i>FAR as revised</i>
<p>[from old 10.004(b)]</p> <p>(2) <del>Purchase</del> descriptions shall not be written so as to specify a particular brand name, product, or feature of a product, peculiar to one manufacturer, thereby precluding consideration of a product manufactured by another company, unless—</p> <p>—(i) <del>The particular brand name, product, or feature is essential to the Government's requirements, and that other companies' similar products, or products lacking the particular feature, would not meet the minimum requirements for the item; and</del></p> <p>—(ii) <del>The authority to contract without providing for full and open competition is supported by the required justifications and approvals (see 6.302-1).</del></p>	<p><b>Agency</b> requirements shall not be written so as to require a particular brand-name, product, or a feature of a product, peculiar to one manufacturer, thereby precluding consideration of a product manufactured by another company, unless—</p> <p>(a) The particular brand-name, product, or feature is essential to the Government's requirements, and <b>market research indicates</b> other companies' similar products, or products lacking the particular feature, <b>do not meet, or can not be modified to meet,</b> the agency's minimum <b>needs</b>; and</p> <p>(b) The authority to contract without providing for full and open competition is supported by the required justifications and approvals (see 6.302-1).</p>

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### SUBPART 11.2—USING AND MAINTAINING REQUIREMENTS DOCUMENTS

#### 11.201 Identification and availability of specifications.

##### ~~10.008 Identification and availability of specifications.~~

<i>FAR as of FAC 90-25</i>	<i>FAR as revised</i>
<p>(a) Solicitations citing <del>specifications</del> listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, DODISS, or other agency index shall identify each <del>specification's</del> approval date and the dates of any applicable amendments and revisions. Contracting offices will not normally furnish these cited specifications with the solicitation, except when—</p> <p>(1) <del>The product being acquired will be so complex that the specification must be furnished with the solicitation to enable prospective contractors to make a competent initial evaluation of the solicitation;</del></p>	<p>(a) Solicitations citing <b>requirements documents</b> listed in the <b>General Services Administration</b> (GSA) Index of Federal Specifications, Standards and Commercial Item Descriptions, the <b>DoD Index of Specifications and Standards</b> (DoDISS), or other agency index shall identify each <b>document's</b> approval date and the dates of any applicable amendments and revisions. <b>Do not use general identification references, such as "the issue in effect on the date of the solicitation."</b> Contracting offices will not normally furnish these cited documents with the solicitation, except when—</p> <p>(1) <b>The requirements document</b> must be furnished with the solicitation to enable prospective contractors to make a competent evaluation of the solicitation;</p>

(2) In the judgment of the contracting officer, it would be impracticable for prospective contractors to obtain the ~~specifications~~ in reasonable time to respond to the solicitation; or

(3) A prospective contractor ~~who has not previously bid on the product~~ requests a copy of the ~~specification~~.

~~—(b) Solicitations shall not contain general identification references such as “the issue in effect on the date of the solicitation.”~~

~~—(c) Solicitations citing voluntary standards shall advise offerors to obtain the standards from the publisher.~~

~~—(d) Contracting offices shall clearly identify in the solicitation specifications and any other pertinent documents not listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions or DoDISS and normally furnish them with the solicitation.~~

~~—(e) When specifications refer to other specifications, such references shall (1) be restricted to documents, or appropriate portions of documents, that shall apply in the acquisition; (2) cite the extent of their applicability; (3) not conflict with other specifications and provisions of the solicitation; and (4) identify all applicable first tier references.~~

~~—(f) Contracting offices shall furnish with the solicitation any brand name or equal description used.~~

~~—(g) The GSA Index of Federal Specifications, Standards and Commercial Item Descriptions and DoDISS may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.~~

(2) In the judgment of the contracting officer, it would be impracticable for prospective contractors to obtain the **documents** in reasonable time to respond to the solicitation; or

(3) A prospective contractor requests a copy of a **Government promulgated requirements document**.

**(b) Contracting offices shall clearly identify in the solicitation any pertinent documents not listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions or DoDISS. Such documents shall be furnished with the solicitation or specific instructions shall be furnished for obtaining or examining such documents.**

**(c) When documents refer to other documents, such references shall (1) be restricted to documents, or appropriate portions of documents, that apply in the acquisition; (2) cite the extent of their applicability; (3) not conflict with other documents and provisions of the solicitation; and (4) identify all applicable first tier references.**

**(d) The GSA Index of Federal Specifications, Standards and Commercial Item Descriptions may be purchased from the General Services Administration, Federal Supply Service Bureau, Specification Section, Suite 8100, 470 L’Enfant Plaza, SW, Washington, DC 20407, telephone (202) 755-0325/0326. The DoDISS may be purchased from the Standardization Documents Desk, Building 4D, 700 Robbins Avenue, Philadelphia, PA 19111-5094, telephone (215) 697-2569.**

**(e) Agencies may generally obtain from the GSA Specification Section or the DOD Standardization Documents Desk those nongovernment (voluntary) standards adopted for use by Federal or Defense activities.**

Standards not available from these sources may be obtained from Government libraries, activities subscribing to document handling services or the organization responsible for their preparation, publication or maintenance of the standard.

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## 11.202 Maintenance of standardization documents.

### 10.005 Management of purchase descriptions.

<i>FAR as of FAC 90-25</i>	<i>FAR as revised</i>
<p><del>—(e) Recommendations for changes in specifications and standards listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions should be submitted to the General Services Administration, Federal Supply Service, Item Management Division, Washington, D.C. 20406. Recommendations for changes in military specifications and standards and other standardization documents listed in the DODISS should be submitted to the cognizant preparing activity.</del></p>	<p>(a) Recommendations for changes to <b>standardization documents</b> listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions should be submitted to the General Services Administration, Federal Supply Service, <b>Office of Acquisition</b>, Washington, DC 20406. <b>Agencies shall submit</b> recommendations for changes to standardization documents listed in the DoDISS to the cognizant preparing activity.</p>
<p><del>—(a) Responsible agencies shall ensure compliance with the policies prescribed in this part for all specifications and standards listed in their indexes.</del></p> <p><del>—(b) When a responsible agency determines, in accordance with its established procedures and criteria, that a listed specification or standard does not meet a particular minimum need of the Government, applicable amendments, revisions, or new descriptions shall be prepared and used. (See 10.007 with regard to deviations.)</del></p>	<p>(b) When an agency cites an existing standardization document but modifies it to meet its needs, the agency shall follow the guidance in Federal Standardization Manual and, for Defense components, DoD 4120.3-M, Defense Standardization Program Policies and Procedures.</p>

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## 11.203 Customer satisfaction.

### 10.009 User satisfaction.

<i>FAR as of FAC 90-25</i>	<i>FAR as revised</i>
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~~—(a) Agencies shall encourage users to communicate with acquisition organizations on—~~  
~~—(1) The adequacy of specifications to communicate the user's minimum needs;~~  
~~—(2) Product capability;~~  
~~—(3) Product failures and deficiencies; and~~  
~~—(4) Suggestions for corrective actions.~~  
~~—(b) Whenever practicable, the agency may provide affected industry an opportunity to comment on the critiques.~~  
~~—(c) Acquisition organizations shall consider user critiques and take appropriate action on bona fide complaints and suggestions.~~

**Acquisition organizations shall communicate with customers to determine how well the requirements document reflects the customer's needs and to obtain suggestions for corrective actions.** Whenever practicable, the agency may provide affected industry an opportunity to comment on the **requirements documents**.

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## 11.204 Solicitation provisions and contract clauses.

### ~~10.011 Solicitation provisions and contract clauses.~~

<i>FAR as of FAC 90-25</i>	<i>FAR as revised</i>
(a) The contracting officer shall insert the provision at <del>52.210-1</del> , Availability of Specifications Listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, in solicitations that <del>(i)</del> are issued by civilian agency contracting offices and <del>(ii)</del> cite specifications listed in the Index that are not furnished with the solicitation.	(a) The contracting officer shall insert the provision at <b>52.211-1</b> , Availability of Specifications Listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, in solicitations that <b>(1)</b> are issued by civilian agency contracting offices and <b>(2)</b> cite specifications listed in the Index that are not furnished with the solicitation.
(b) The contracting officer shall insert the provision at <del>52.210-2</del> , Availability of Specifications Listed in the DOD Index of Specifications and Standards (DODISS), in solicitations that <del>(i)</del> are issued by DOD contracting offices and <del>(ii)</del> cite specifications listed in the DODISS that are not furnished with the solicitation.	(b) The contracting officer shall insert the provision at <b>52.211-2</b> , Availability of Specifications Listed in the DoD Index of Specifications and Standards (DoDISS), in solicitations that <b>(1)</b> are issued by DoD contracting offices and <b>(2)</b> cite specifications listed in the DoDISS that are not furnished with the solicitation.
(c) The contracting officer shall insert a provision substantially the same as the provision at <del>52.210-3</del> , Availability of Specifications Not Listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, in solicitations that cite specifications that are not listed in the Index and are not furnished with the solicitation, but may be obtained from a designated source.	(c) The contracting officer shall insert a provision substantially the same as the provision at <b>52.211-3</b> , Availability of Specifications Not Listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, in solicitations that cite specifications that are not listed in the Index and are not furnished with the solicitation, but may be obtained from a designated source.
(d) The contracting officer shall insert a provision substantially the same as the provision at <del>52.210-4</del> , Availability for Examination of	(d) The contracting officer shall insert a provision substantially the same as the provision at <b>52.211-4</b> , Availability for Examination of



Specifications Not Listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, in solicitations that cite specifications that are not listed in the Index and are available for examination at a specified location.

Specifications Not Listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, in solicitations that cite specifications that are not listed in the Index and are available for examination at a specified location.

[paragraphs (e), (f), and (g) moved to new §11.302)

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## SUBPART 11.3—ACQUIRING OTHER THAN NEW MATERIAL, FORMER GOVERNMENT SURPLUS PROPERTY, AND RESIDUAL INVENTORY.

### ~~10.010 Acquiring used or reconditioned material, former Government surplus property, and residual inventory.~~

#### 11.301 Policy.

<i>FAR as of FAC 90-25</i>	<i>FAR as revised</i>
<p>(a) Generally, all contractually furnished supplies and their components, including former Government property, will be new, including recycled (see Subpart 23.4 for policy on recovered materials). However, agencies may acquire used or reconditioned material, former Government surplus property, or residual inventory conforming to the solicitation's requirements, if the contracting officer determines that it is acceptable. When such a determination is made, the solicitation shall clearly identify the supplies or their components that need not be new, along with the necessary details on their acceptability. Offerors wishing to provide such used or reconditioned material, former Government surplus property, or residual inventory shall do so in accordance with the clause at 52.210-5, New Material, or the provision at 52.210-6, Listing of Used or Reconditioned Material, Residual Inventory, and Former Government Surplus Property, and the clause at 52.210-7, Used or Reconditioned Material, Residual Inventory, and Former Government Surplus Property, as appropriate.</p>	<p>(a) <b>Agencies shall allow offers of other than new material</b>, former Government surplus property, or residual inventory <b>unless it is determined that such materials are unacceptable. When acquiring commercial items, the contracting officer should consider the customary practice in the industry for the item being acquired. When only new material is acceptable</b>, the solicitation shall clearly identify the <b>material</b> that <b>must</b> be new. Offerors <b>providing other than new material shall be required to comply</b> with the clause at <b>52.211-5, New Material</b>, the provision at <b>52.211-6, Listing of Other Than New Material</b>, Residual Inventory, and Former Government Surplus Property, and the clause at <b>52.211-7, Other Than New Material</b>, Residual Inventory, and Former Government Surplus Property, as appropriate.</p> <p>(b) <b>Agencies shall specify products, including packaging, that contain the highest practicable percentage of recovered and environmentally preferable materials, and where applicable, post-consumer material, consistent with performance requirements, availability, price reasonableness, and cost-effectiveness.</b></p> <p>(c) Contracting officers shall consider the following when determining whether <b>other than new</b> materials, former Government surplus</p>
<p>(b) Contracting officers shall consider the following when determining whether <del>used or reconditioned</del> materials, former Government surplus</p>	

property, or residual inventory are acceptable:

- (1) Safety of persons or property.
- (2) Total cost to the Government (including maintenance, inspection, testing, and useful life).
- (3) Performance requirements.
- (4) Availability and cost of new materials and components.
- (c) With regard to former Government surplus property, the contracting officer shall ensure that the prices paid for such items are reasonable considering overall cost savings to the Government.

When a contract calls for material to be furnished at cost, the allowable charge for former Government surplus property shall not exceed the cost at which the contractor acquired the property.

property, or residual inventory are acceptable:

- (1) Safety of persons or property.
- (2) **Specification and** performance requirements.
- (3) Price reasonableness.
- (4) Total cost to the Government (including maintenance, inspection, testing, and useful life).

(d) When a contract calls for material to be furnished at cost, the allowable charge for former Government surplus property shall not exceed the cost at which the contractor acquired the property.

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### 11.302 Solicitation provisions and contract clauses.

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#### *FAR as of FAC 90-25*

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[from old 10.011]

- (e)(1) The contracting officer shall insert the clause at 52.210-5, New Material, in solicitations and contracts for supplies, ~~unless, in the judgment of the contracting officer, the clause would serve no useful purpose.~~
- (2) The contracting officer may insert the clause in solicitations and contracts for services that may involve the incidental furnishing of parts.

—(f)(1) The contracting officer shall insert the provision at 52.210-6, Listing of ~~Used or Reconditioned~~ Material, Residual Inventory, and Former Government Surplus Property, in solicitations for supplies, ~~unless, in the judgment of the contracting officer, the provision would serve no useful purpose.~~

—(2) The contracting officer may insert the provision in solicitations for services that may involve the incidental furnishing of parts.

- (g)(1) The contracting officer shall insert the clause at 52.210-7, ~~Used or Reconditioned~~ Material, Residual Inventory, and Former Government Surplus Property, in solicitations and contracts for supplies, ~~unless, in the judgment of the contracting officer, the clause would serve no useful purpose.~~
- (2) The contracting officer may insert the clause in solicitations and contracts for services that may

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#### *FAR as revised*

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(a) The contracting officer **may** insert the clause at **52.211-5**, New Material, in solicitations and contracts for supplies. **The clause shall not be used if it would be contrary to customary commercial practices for the item being acquired.**

(b) The contracting officer shall insert the provision at **52.211-6**, Listing of **Other Than New** Material, Residual Inventory, and Former Government Surplus Property, in solicitations **containing the clause at 52.211-5.**

(c) The contracting officer shall insert the clause at **52.211-7, Other Than New** Material, Residual Inventory, and Former Government Surplus Property, in contracts **containing the clause at 52.211-5.**

involve the incidental furnishing of parts.

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[FAC 90-32]

**SUBPART 11.4—DELIVERY OR PERFORMANCE SCHEDULES**

[REDESIGNATED FROM OLD SUBPART 12.1 WITH MINOR CHANGES AND UPDATED REFERENCES]

**SUBPART 11.5—LIQUIDATED DAMAGES**

[REDESIGNATED FROM OLD SUBPART 12.2 WITH UPDATED REFERENCES]

**SUBPART 11.6—PRIORITIES AND ALLOCATIONS**

[REDESIGNATED FROM OLD SUBPART 12.3 WITH UPDATED REFERENCES]

**SUBPART 11.7—VARIATION IN QUANTITY**

[REDESIGNATED FROM OLD SUBPART 12.4 WITH UPDATED REFERENCES]

**PART 52.211-1 THROUGH PART 52.211-7**

[REDESIGNATED FROM OLD PART 52.210-1 THRU 52.210-7 WITH UPDATED REFERENCES]

**PART 52.211-8 THROUGH PART 52.211-18**

[REDESIGNATED FROM OLD PART 52.212-1 THRU 52.212-11 WITH UPDATED REFERENCES]

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**11.403** [FAC 90-29]

~~**12.103** Supplies or services.~~

<i>FAR as of FAC 90-25</i>	<i>FAR as revised</i>
<p>* * * * *</p> <p>(e) In invitations for bids, if the delivery schedule is based on the date of the contract, and a bid offers delivery based on the date the contractor receives the contract or notice of award, the contracting officer shall evaluate the bid by adding 5 days (as representing the normal time for arrival through ordinary mail). If the offered delivery date computed with mailing time is later than the delivery date required by the invitation for bids, the bid shall be considered nonresponsive and rejected. If award is made, the delivery date will be the number of days offered in the bid after the contractor actually receives the notice of award.</p>	<p>* * * * *</p> <p>In invitations for bids, if the delivery schedule is based on the date of the contract, and a bid offers delivery based on the date the contractor receives the contract or notice of award, the contracting officer shall evaluate the bid by adding 5 calendar days (as representing the normal time for arrival through ordinary mail). <b>If the contract or notice of award will be transmitted electronically, (1) the solicitation shall so state; and (2) the contracting officer shall evaluate delivery schedule based on the date of contract receipt or notice of award, by adding one working day. (The term "working day" excludes weekends and U.S. Federal holidays.)</b> If the offered delivery date computed with mailing <b>or transmittal time</b> is later than the</p>

delivery date required by the invitation for bids, the bid shall be considered nonresponsive and rejected. If award is made, the delivery date will be the number of days offered in the bid after the contractor actually receives the notice of award.

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**52.211-8**

**~~52.212-1 Time of Delivery.~~**

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(b) Attention is directed to the Contract Award provision of the solicitation that provides that a written award or acceptance of offer mailed, or otherwise furnished to the successful offeror, results in a binding contract. The Government will mail or otherwise furnish to the offeror an award or notice of award not later than the day award is dated. Therefore, the offeror should compute the time available for performance beginning with the actual date of award, rather than the date the written notice of award is received from the Contracting Officer through the ordinary mails. However, the Government will evaluate an offer that proposes delivery based on the Contractor's date of receipt of the contract or notice of award by adding five days for delivery of the award through the ordinary mails. If, as so computed, the offered delivery date is later than the required delivery date, the offer will be considered nonresponsive and rejected.

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(b) Attention is directed to the Contract Award provision of the solicitation that provides that a written award or acceptance of offer mailed, or otherwise furnished to the successful offeror, results in a binding contract. The Government will mail or otherwise furnish to the offeror an award or notice of award not later than the day award is dated. Therefore, the offeror should compute the time available for performance beginning with the actual date of award, rather than the date the written notice of award is received from the Contracting Officer through the ordinary mails. However, the Government will evaluate an offer that proposes delivery based on the Contractor's date of receipt of the contract or notice of award by adding (i) five calendar days for delivery of the award through the ordinary mails, **or (ii) one working day if the solicitation states that the contract or notice of award will be transmitted electronically. (The term "working day" excludes weekends and U.S. Federal holidays.)**. If, as so computed, the offered delivery date is later than the required delivery date, the offer will be considered nonresponsive and rejected.  
[FAC 90-29]

**52.211-9**

**~~52.212-2 Time of Delivery.~~**

\* \* \* \* \*

(b) Attention is directed to the Contract Award provision of the solicitation that provides that a written award or acceptance of offer mailed or otherwise furnished to the successful offeror results in a binding contract. The Government will mail or otherwise furnish to the offeror an award or notice of award not later than the day the award is dated. Therefore, the offeror shall compute the time available for performance beginning with the actual

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(b) Attention is directed to the Contract Award provision of the solicitation that provides that a written award or acceptance of offer mailed or otherwise furnished to the successful offeror results in a binding contract. The Government will mail or otherwise furnish to the offeror an award or notice of award not later than the day the award is dated. Therefore, the offeror shall compute the time available for performance beginning with the actual

date of award, rather than the date the written notice of award is received from the Contracting Officer through the ordinary mails. However, the Government will evaluate an offer that proposes delivery based on the Contractor's date of receipt of the contract or notice of award by adding five days for delivery of the award through the ordinary mails. If, as so computed, the offered delivery date is later than the required delivery date, the offer will be considered nonresponsive and rejected.

date of award, rather than the date the written notice of award is received from the Contracting Officer through the ordinary mails. However, the Government will evaluate an offer that proposes delivery based on the Contractor's date of receipt of the contract or notice of award by adding **(i) five calendar days for delivery of the award through the ordinary mails, or (ii) one working day if the solicitation states that the contract or notice of award will be transmitted electronically. (The term "working day" excludes weekends and U.S. Federal holidays.)** If, as so computed, the offered delivery date is later than the required delivery date, the offer will be considered nonresponsive and rejected.

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